

Office of the Secretary of Defense

§ 143.5

forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

§ 143.4 Prohibited activity.

(a) *Membership and enrollment.* (1) A member of the armed forces, knowing of the activities or objectives of a particular military labor organization, may not:

- (i) Join or maintain membership in such organization; or
- (ii) Attempt to enroll any other member of the armed forces as a member of such organization.

(2) No person on a military installation, and no member of the armed forces, may enroll in a military labor organization any member of the armed forces or solicit or accept dues or fees for such an organization from any member of the armed forces.

(b) *Negotiation or bargaining.* (1) No person on a military installation, and no member of the armed forces, may negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members.

(2) No member of the armed forces, and no civilian officer or employee, may negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces.

(c) *Strikes and other concerted activity.* (1) No person on a military installation, and no member of the armed forces, may organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to:

- (i) Negotiate or bargain with any person concerning the terms or conditions

of service of any member of the armed forces,

- (ii) Recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

- (iii) Make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces.

(2) No person may use any military installation for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this Directive.

(3) No member of the armed forces, and no civilian officer or employee, may permit or authorize the use of any military installation for any meeting, march, picketing demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by this Directive.

(d) *Representation.* A military labor organization may not represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

§ 143.5 Activity not covered by this part.

(a) This part does not limit the right of any member of the armed forces to:

- (1) Join or maintain membership in any lawful organization or association not constituting a "military labor organization" as defined in § 143.7.

- (2) Present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

- (3) Seek or receive information or counseling from any source;

- (4) Be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

(5) Petition the Congress for redress of grievances; or

(6) Take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable law and regulations.

(b) This part does not prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory council, committees, or organizations.

(c) This part does not prevent any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities with respect to terms or conditions of civilian employment.

§ 143.6 Responsibility.

(a) *Heads of DoD Components* shall:

(1) Ensure compliance with this part and with the guidelines contained in enclosure 1.

(2) Establish procedures to ensure that any action initiated under this part is reported immediately to the Head of the DoD Component concerned.

(3) Report any action initiated under this part immediately to the Secretary of Defense.

(b) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall serve as the administrative point of contact in the Office of the Secretary of Defense for all matters relating to this part.

§ 143.7 Definitions.

(a) *Member of the Armed Forces.* A member of the armed forces who is serving on active duty, or a member of a Reserve component while performing inactive duty training.

(b) *Military labor organization.* Any organization that engages in or attempts to engage in:

(1) Negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

(2) Representing individual members of the armed forces before any civilian

officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

(3) Striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to:

(i) Negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

(ii) Recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

(iii) Make any change with respect to the terms or conditions of military service of individual members of the armed forces.

(c) *Civilian officer or employee.* An employee, as defined in 5 U.S.C. 2105.

(d) *Military installations.* Includes installations, reservations, facilities, vessels, aircraft, and other property controlled by the Department of Defense.

(e) *Negotiation or bargaining.* A process whereby a commander or supervisor acting on behalf of the United States engages in discussions with a member or members of the armed forces (purporting to represent other such members), or with an individual, group, organization, or association purporting to represent such members, for the purpose of resolving bilaterally terms or conditions of military service.

(f) *Terms or conditions of military service.* Terms or conditions of military compensation or duty including but not limited to wages, rates of pay, duty hours, assignments, grievances, or disputes.

§ 143.8 Guidelines.

The guidelines for making certain factual determinations are as follows:

(a) In determining whether an organization is a military labor organization, whether a person is a member of